

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for rate increase  
by Gulf Power Company.

DOCKET NO. 010949-EI  
ORDER NO. PSC-01-1949-PCO-EI  
ISSUED: September 28, 2001

ORDER GRANTING INTERVENTION

On July 6, 2001, Gulf Power Company (Gulf) filed its notice of its intent to request a rate increase, pursuant to Rule 25-6.140, Florida Administrative Code. On September 10, 2001, Gulf filed its Petition for a rate increase. The matter has been set for hearing.

On September 6, 2001, the Florida Cable Telecommunications Association, Inc. (FCTA) filed a Petition for Leave to Intervene. No response was filed. The FCTA states that it is a non-profit trade association representing cable companies providing cable services in Florida, and alternative local exchange carriers (ALECs) providing telecommunications service in Florida.

FCTA claims that its substantial interests will be affected by the outcome of this docket because four of its seven members are retail customers of Gulf, and because its members attach communications lines to Gulf's utility poles. With respect to pole attachments, FCTA explains that federal law requires Gulf to allow FCTA members access to its utility poles on just and reasonable rates, terms and conditions. FCTA further explains that Gulf claims that the cost of establishing new distribution lines and maintaining its infrastructure is one reason that the cost of providing electricity has increased. FCTA concludes that the rate case will involve a review of issues and accounts relevant to its members' interests in the use of Gulf's utility poles.

FCTA notes that it is currently litigating, before the Federal Communications Commission and the United States Court of Appeals for the Eleventh Circuit, the rental fees for pole attachments charged by Gulf. FCTA also notes that its intervention will advance judicial efficiency by consolidating the participation of members.

For an association to have standing to intervene in an administrative proceeding, it must demonstrate that: (1) a

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substantial number of its members have substantial interests which are affected by our proposed action; (2) the subject matter of the proceeding is within the association's general scope of interest and activity; and (3) the relief requested is of the type appropriate for an association to receive on behalf of its members. See Florida Home Builders Association v. Dept. of Labor and Employment Security, 412 So. 2d 351 (Fla. 1982); Friends of the Everglades v. Board of Trustees of the Internal Improvement Trust Fund, 595 So. 2d 186 (Fla. 1st DCA 1992); Order No. PSC-98-0374-FOF-EG, issued March 9, 1998.

In this proceeding, the applicable statutes are Sections 366.05 and 366.06, Florida Statutes. These statutes confer ratemaking authority on the Commission.

The FCTA has standing because its members are retail customers of Gulf. There is no need to decide whether the FCTA has standing by virtue of its contracts with Gulf for renting space on Gulf's utility poles.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Cable Telecommunications Association, Inc.'s Petition for Leave to Intervene is granted.

By ORDER of the Florida Public Service Commission this 28th Day of September, 2001.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )  
MKS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2) reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.